

Court Records: Historic Overview of Policy Development

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April 30, 2013



- Starting Point of Existing AZ Records Law
 - Access to Judicial Records
 - SCR 123
 - Retention of Judicial Records
 - LJC; ACJA § 4-302
 - GJC; ACJA § 3-402
 - Court of Appeals; AO 99-79
 - Supreme Court; 2001-45

Court Records

- What is SCR 123?
 - The primary source of authority governing *access* to the judicial records of the State of Arizona
 - The judicial branch counterpart to the executive branch public records law in statute
 - Governs case documents and case data; paper and electronic

Court Records

- Background of SCR 123
 - Adopted in the mid 1990's
 - "the records in all courts . . . are presumed to be open"
 - "Public access . . . may be restricted" for reasons of privacy, confidentiality, or because it is in the state's best interests.

Court Records

- In 2008, major additions to SCR 123 were needed because:
 - Court records are being used in more and more ways and there is a greater demand for them
 - Court resources for responding to requests for records are limited

Court Records

- Reasons for 2008 additions:
 - Public expectations for immediate online access to information have increased
 - A consistent, statewide approach is needed

Court Records

- Result of sec. g amendments, eff. 1-1-10:
 - Courts and custodians can now provide remote electronic access to *some* case documents and data
 - There is *no obligation* to make court records available by remote electronic access

Court Records

- Result of sec. g amendments, eff. 1-1-10:
 - Remote Electronic Access -“access by electronic means that permits the viewer to search, inspect, or copy a record without the need to physically visit a court facility.”
 - The Supreme Court is currently building a statewide e-Access component that will allow remote electronic access to some case documents and data.

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- Result of sec. g amendments, eff. 1-1-10:
 - Allows courts or clerks of court to remove CMS data and case records from online display once the records retention schedule period is met.

Court Records

- Retention of case records
 - Arizona has 4 records retention schedules for the courts:
 - LJC – ACJA § 4-302 was adopted in 2006; original schedule in AO in 1991
 - GJC – ACJA § 3-402 was adopted in 2006; original schedule in AO in 1991

Court Records

- Retention of case records
 - Court of Appeals – AO adopted in 1999; previous AO adopted in 1991
 - Supreme Court – AO adopted in 2001

Court Records

- Retention of case records
 - A 5th schedule has been considered for the e-filing system
 - Would apply to documents and data across court levels
 - Would capture screenshots and electronic messages in the statewide e-filing system – both those generated by the system and those between filers and the clerk

Court Records

- Additional records authority
 - SCR 29 – Court Records. Requires the supreme court to adopt retention and disposition schedules for the courts
 - SCR 94 – Superior Court Clerks. Authorizes a superior court clerk to rely on a photographic or electronic reproduction or image of the *original record* – subject to provisions of ACJA § 1-507

Court Records

- National perspective
 - Consultation with NCSC and subsequent research:
 - New area of court administration; AZ is pioneering
 - Review of records authority in other states recommended by NCSC (Tab 12)

Court Records

- When carrying out the charge in the authorizing AO - from a policy perspective
 - keep in mind the following concepts:
 - Case records vs. administrative records
 - Terms such as “electronic record,” “original record,” “case record,” “court record”
 - Definitions vary in code, rule, statute

Court Records

- Additional considerations (cont.)
 - Difference between documents vs. data
 - Difference between paper documents vs. electronic documents
 - Born-digital
 - Scanned paper
 - Metadata

Court Records

Questions?

Court Records